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SANITARY LEGISLATION.

COURT DECISIONS.

NEW YORK SUPREME COURT—APPELLATE DIVISION—THIRD DEPARTMENT.

Tuberculosis and the Workmen's Compensation Law—Compensation Allowed for Disability Caused by Tuberculosis which Followed Exposure and Pleurisy.

RIST v. LARKIN & SANGSTER et al. (Jan. 5, 1916.)

The New York workmen's compensation law provides for compensation for "accidental injuries arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result therefrom." The commission decided that a workman who was disabled by getting wet, and "contracted a heavy cold and pleurisy, which developed into pulmonary tuberculosis," was entitled to compensation, and the court affirmed the decision.

[156 New York Supplement, 875.]

JOHN M. KELLOGG, P. J.: The commission has found that the claimant, September 3, 1914, was working for his employer on the Mohawk River operating a crane. One of the timbers of the crane broke, and to save himself from being hurt he jumped into the river, a distance of some 10 feet. The water came up to his knees. He waded to the shore, contracted a heavy cold and pleurisy which developed into pulmonary tuberculosis, by reason of which he was disabled from the date of the accident until February 25, 1915, and since that date.

The finding of the commission that claimant's present condition is the result of the accidental breaking of the timber, and that his going into the river resulted therefrom, is not unreasonable, and has some evidence to sustain it. We can not question it. While the claimant jumped into the water, he did so to prevent a personal injury resulting from the accidental breaking of the timber. The jumping into the river was therefore not a voluntary act, but was the result of the accident, which put the claimant in such peril that his getting wet must be considered accidental rather than voluntary.

Subdivision 7 of section 3 of the workmen's compensation law defines injury and personal injury to mean only accidental injuries arising out of and in the course of employment and such diseases or infection as may naturally and unavoidably result therefrom. We consider the claimant in the same position as if the accident had thrown him into the river, and clearly his being accidentally thrown 10 feet into the water was an injury within the meaning of the act, and the disease following has been found to naturally and unavoidably result from that injury. He at the time apparently was not physically disabled by jumping into the water, and it was not then quite clear what injury he had sustained, but it has developed that the injury was very serious.

The award should therefore be affirmed. All concur.